

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CHRISTOPHER A. EDWARDS,

Petitioner,

vs.

MICHELE CAPPS, Warden, Nebraska  
Penitentiary; and SCOTT R. FRAKES, Director,  
Nebraska Department of Correctional Services;

Respondents.

**4:19-CV-3033**

**ORDER**

This matter is before the Court on Respondents' request for a progression order. [Filing 7](#). To ensure a just and fair resolution of this matter, the Court will enter an order progressing this case to final resolution. Accordingly, this case will be progressed as set out below.

**IT IS ORDERED:**

1. On or before February 11, 2020, Respondents shall file a motion for summary judgment or an answer supported by state court records.
2. If Respondents elect to file a motion for summary judgment, the following procedures shall be followed by Respondents and Petitioner:
  - a. The motion for summary judgment shall be filed on or before February 11, 2020.
  - b. The motion for summary judgment shall be accompanied by a separate brief, submitted at the time of the filing of the motion.
  - c. The motion for summary judgment shall be supported by such state court records as are necessary to support the motion. Those records shall be contained in a separate filing entitled: "Designation of State Court Records in Support of Motion for Summary Judgment."
  - d. Copies of the motion for summary judgment, the designation, including state court records, and Respondents' brief must be served on Petitioner, except that Respondents are only required to provide Petitioner with a copy of the specific pages of the record that are cited in Respondents' brief. If the designation of state court records is deemed insufficient by Petitioner, Petitioner may file a motion with the Court requesting to submit additional documents. Such motion must set forth the documents requested and the reasons the documents are relevant to the claims.

- e. No later than 30 days following the filing of the motion for summary judgment, Petitioner shall file and serve a brief in opposition to the motion for summary judgment. Petitioner may not submit other documents unless directed to do so by the Court.
  - f. No later than 30 days after the filing of Petitioner's brief, Respondents may file and serve a reply brief. In the event Respondents elect not to file a reply brief, they should inform the Court by filing a notice stating that they will not file a reply and that the motion is fully submitted for decision.
3. If the motion for summary judgment is denied, Respondents shall file an answer that complies with terms of this order. (*See* following paragraph.) The answer shall be filed no later than 30 days after the denial of the motion for summary judgment. Respondents are warned that failure to file an answer in a timely fashion may result in the imposition of sanctions.
4. If Respondents elect to file an answer, the following procedures shall be followed by Respondents and Petitioner:
- a. On or before February 11, 2020, Respondents shall file all state court records that are relevant to the claims. Those records shall be contained in a separate filing entitled: "Designation of State Court Records In Support of Answer."
  - b. No later than 30 days after the filing of the relevant state court records, Respondents shall file an answer. The Answer shall comply with Rule 5 of the Rules Governing Section 2254 and 2255 Cases.
  - c. Copies of the answer, the designation, and any additional documents must be served on Petitioner at the time they are filed with the Court except that Respondents are only required to provide Petitioner with a copy of the specific pages of the designated record that are cited by Respondent. In the event the designation of state court records is deemed insufficient by Petitioner, Petitioner may file a motion with the Court requesting additional documents. Such motion must set forth the documents requested and the reasons the documents are relevant to the claims.
  - d. No later than 30 days following the filing of Respondents' Answer, Petitioner may file and serve a brief in response. Petitioner must not submit any other documents unless directed to do so by the Court.
5. No discovery shall be undertaken without leave of court.

Dated this 20th day of December, 2019.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher  
United States District Judge